

*Application No.: 09/909,667
June 18, 2003*

*Amendment
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forming at least one cavity in the bone, wherein a portion of the at least one cavity defines an opening;

inserting an expandable, empty fabric bag into the at least one cavity through the opening, the bag being formed of a fabric wall that includes a plurality of bag openings between about 0.25 to about 5.0 mm in diameter, the bag defining an interior and having an exterior; and

packing the bag through a fill opening with material that will support or promote bone growth through the fabric wall, the packing causing said bag to expand until the bag and material combination form a self-retaining rigid shape wherein the exterior of the bag is substantially in contact with the bone of the cavity, the plurality of bag openings constructed and arranged to substantially prevent the material from passing from the interior of the bag to the exterior of the bag.

REMARKS

This Amendment is in response to the Office Action mailed March 20, 2003 wherein claims 1-13 and 15-20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. 5,571,189 to Kuslich et al (Kuslich '189).

In the Office Action Kuslich '189 is said to disclose all of the method steps of the various claims. Applicants respectfully disagree. In a teleconference with the Examiner on June 18, 2003, Applicants pointed out that Kuslich '189 is directed to the treatment of a spinal disc, and that the method described in the '189 reference does not address a method for treating an abnormality wherein the abnormality is a bone tumor, cyst, avascular necrosis of the femoral head, tibial plateau fractures, compression fractures of the spine and any combination thereof as the instant claims 1-13 describe. The Examiner indicated that despite the rejection of claim 2, which recites all of the abnormalities listed above, Applicants should nonetheless amend claim 1 to include the limitations of claim 2 for the Examiner's further consideration.

Claim 1 has been amended to recite that the abnormality being treated consists of any of those recited above, which claim 2 (now cancelled) as originally filed recited. Kuslich